

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
"JOHN DOE",

Plaintiff,

-against-

THE SHOREFRONT YM-YWHA OF BRIGHTON-
MANHATTAN BEACH, INC.,

Defendant.
-----X

Index No. :

SUMMONS

Plaintiff designates
KINGS COUNTY
as the place of trial

The basis of venue is
LOCATION OF
OCCURRENCE

TO THE ABOVE NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the complaint in this action, and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after service is complete if this summons is not personally delivered to you with the State of New York); and in case of your failure to appear or answer, judgement will be taken against you by default for the relief demanded in the complaint.

Dated: New York, New York
September 27, 2019

BY:



John J. Meehan, Esq.
JOSEPH & NORINSBERG, LLC
Attorneys for Plaintiff
225 Broadway, Suite 2700
New York, N.Y. 10007
(212) 227-5700

TO: SHOREFRONT YM-YWHA OF
BRIGHTON-MANHATTAN BEACH, INC.
3300 Coney Island Avenue
Brooklyn, New York, 11235

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

-----X
"JOHN DOE"

Index No.:

Plaintiff,

VERIFIED COMPLAINT

-against-

JURY TRIAL DEMANDED

THE SHOREFRONT YM-YWHA OF BRIGHTON-
MANHATTAN BEACH, INC.,

Defendant.
-----X

Plaintiff "JOHN DOE", by his attorneys JOSEPH & NORINSBERG, LLC, and KEVIN T. MULHEARN, P.C., hereby brings this action against Defendant SHOREFRONT YM-YWHA OF BRIGHTON-MANHATTAN BEACH, INC. ("SHOREFRONT") alleging, on personal knowledge as to himself and on information and belief as to all other matters, as follows:

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

JURISDICTION AND VENUE

1. This Court has personal jurisdiction over the Defendant pursuant to CPLR §§ 301 and 302, in that the Defendant resides in New York.
2. This Court has jurisdiction over this action because the amount of damages Plaintiff seeks exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction.
3. Venue for this action is proper in the County of Kings, pursuant to CPLR § 503, in that the Defendant is based in this County, and all of the salient events and omissions giving rise to the claims occurred in Kings County.

CHILD VICTIMS ACT

4. Plaintiff's causes of action are timely pursuant to the Child Victims Act that was enacted on February 14, 2019. Plaintiff alleges that Defendant committed intentional or negligent acts or omissions which resulted in Plaintiff suffering physical, psychological or other injuries or conditions as a direct and proximate result of conduct which constitutes a sexual offense committed against a child less than eighteen years of age, as defined in New York Penal Law § 130. This action, moreover, has been filed not earlier than six months after, and not later than one year and six months after, the effective date of the newly added CPLR § 214-g.

PARTIES

5. Plaintiff JOHN DOE is an individual currently residing in Florida, who was born and raised in the County of Kings, in the City and State of New York.

6. Defendant SHOREFRONT is a corporation organized and existing under the laws of the State of New York, with its principal office at 3300 Coney Island Avenue, Brooklyn, New York, 11235, and operates the Shorefront YM-YWHA located at 3300 Coney Island Avenue, Brooklyn, New York, 11235, and was formerly known as the Shorefront YMHA.

7. At all relevant times, Defendant SHOREFRONT created, oversaw, managed, controlled, directed and operated the Shorefront YM-YWHA.

8. At all relevant times, Defendant SHOREFRONT managed, supervised, employed, directed and/or controlled staff, counselors, and coaches assigned to work at the Shorefront YM-YWHA, including Irving Bilzinsky ("Blizinsky").

9. At all relevant times, staff, counselors, and coaches, including Irving Bilzinsky, and Michael Blutrich, assigned to the Shorefront YM-YWHA were agents, managers, directors, or employees of Defendant SHOREFRONT.

STATEMENT OF FACTS

10. Plaintiff JOHN DOE grew up in the Manhattan Beach neighborhood of Brooklyn, New York.

11. Plaintiff JOHN DOE attended the Shorefront YM-YMHA for various after school activities throughout his time in junior and senior year of high school. Plaintiff participated in basketball programs offered at the Shorefront YM-YWHA.

12. During the times relevant to the allegations set forth herein, Defendant SHOREFRONT was responsible for overseeing, managing, controlling, directing and operating Shorefront YM-TWHA under a preceding name of the same business entity, namely the Shorefront YMHA.

13. In approximately 1976, Plaintiff JOHN DOE began to play after-school basketball at the Shorefront YM-YMHA, with Irving Bilzinsky serving as his basketball coach.

14. Through his position at, within, or for defendant SHOREFRONT, Irving Bilzinsky was put in direct contact with Plaintiff JOHN DOE.

15. In approximately 1978, when Plaintiff was about sixteen years of age, he was repeatedly sexually abused by Irving Bilzinsky at the Shorefront YM-YWHA.

16. Irving Bilzinsky would take JOHN DOE into the office of the Shorefront YM-YWHA gymnasium for extended periods of time, and use this private room to commit sexual assaults on Plaintiff JOHN DOE.

17. SHOREFRONT knew, or should have known that Bilzinsky was engaging in unlawful and inappropriate behavior by removing one of his students and keeping him in his office for an extended period of time.

18. Bilzinsky repeatedly used these encounters, gained through his positions as a coach at the Shorefront YM-YWHA, which granted him access to Defendant SHOREFRONT's young clients, to sexually assault, sexually abuse, and/or have sexual contact with Plaintiff (and other children) in violation of the laws of the State of New York.

19. At all times material hereto, Bilzinsky was under the management, supervision, employ, direction and/or control of Defendant SHOREFRONT.

20. Defendant SHOREFRONT knew, and/or reasonably should have known, and/or knowingly condoned, and/or covered up, the inappropriate and unlawful sexual activities of Bilzinsky who repeatedly sexually abused Plaintiff.

21. Upon information and belief, it was common knowledge amongst the children, staff, employees, and coaches at the Shorefront YM-YWHA that Bilzinsky was frequently molesting numerous young boys.

22. Defendant SHOREFRONT had the responsibility to manage, supervise, control and/or direct the staff who served at the Shorefront YM-YWHA, and specifically had a duty not to aid known sexual predators such as Bilzinsky by assigning, maintaining, and/or appointing him to a position with access to minors.

23. Defendant SHOREFRONT had a duty to Plaintiff to ensure that Defendant SHOREFRONT did not offer opportunities for known sexual predators to approach and assault vulnerable children. Defendant SHOREFRONT knew and/or should have known that Bilzinsky used his position as a basketball coach to harm minor children, including the Plaintiff, and to form an acquaintance that could be, and was, used to provide opportunities for sexual abuse.

24. Plaintiff suffered severe psychological injuries and emotional damages as a result of Defendant's actions, as well as other damages related thereto, as a result of his childhood sexual

abuse.

25. As a direct result of Defendant's conduct described herein, Plaintiff suffered and will continue to suffer great pain of mind and body, severe and permanent emotional distress, and physical manifestations of emotional distress. Plaintiff was prevented from obtaining the full enjoyment of life; have incurred and will continue to incur expenses for medical and psychological treatment, therapy, and counseling; and have incurred and will continue to incur loss of income and/or loss of earning capacity.

FIRST CAUSE OF ACTION
(Negligent Hiring/Retention/Supervision/Direction)

26. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

27. Defendant SHOREFRONT at all relevant times represented or otherwise indicated to the parents of plaintiff that minor children would be physically safe while in the presence of the counselors, staff, and coaches assigned to the Shorefront YM-YWHA. Defendant entered into an express and/or implied duty to provide that when the Plaintiff was a minor and left in the presence of counselors, staff, and coaches, Plaintiff would be kept safe and that that counselors, staff, coaches, agents, and/or employees would not sexually abuse the Plaintiff.

28. Defendant SHOREFRONT owed a duty of care to all minor persons, including Plaintiff, who were likely to come in contact with its employees, agents, coaches, and/or counselors or were under the supervision of their employees, agents, coaches, and/or counselors to ensure that their employees, agents, coaches, and/or counselors did not use their assigned positions to injure minors by sexual assault, sexual abuse, or sexual contact in violation of the laws of the State of New York, specifically Article 130 of the New York Penal Law.

29. Defendant SHOREFRONT, knew, or should have known, of Bilzinsky's propensity for the conduct which caused Plaintiff's injuries prior to, or about the time of, the injuries' occurrence.

30. The sexual abuse of children by adults, including staff, counselors and doctors, is a foreseeable result of negligence.

31. Bilzinsky sexually assaulted, sexually abused and/or had sexual contact with the Plaintiff while working in his capacity as a basketball coach for and under the supervision and control, and/or employ, of Defendant SHOREFRONT.

32. Defendant SHOREFRONT, negligently hired, retained, directed, and supervised Bilzinsky as they knew or should have known that Bilzinsky posed a threat of sexual abuse to children (including the Plaintiff).

33. Defendant SHOREFRONT was negligent in failing properly to supervise Bilzinsky.

34. At all times material hereto, Defendant SHOREFRONT, was willful, wanton, malicious, reckless and/or outrageous in its disregard for the rights and safety of Plaintiff JOHN DOE, and demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, Defendant's conduct gives rise to punitive damages.

35. As a direct and proximate result, Plaintiff has suffered and will continue to suffer the injuries described herein.

36. By reason of the foregoing, the Defendant SHOREFRONT, is liable to the Plaintiff, for compensatory damages, and punitive damages, together with interest and costs.

SECOND CAUSE OF ACTION
(Negligence/Gross Negligence)

37. Plaintiff repeats and realleges each and every allegation set forth in the above

paragraphs as if fully set forth herein.

38. At all times material hereto, with regard to the allegations contained herein, Bilzinsky was under the supervision, employ, direction and/or control of Defendant SHOREFRONT.

39. Defendant SHOREFRONT, owed Plaintiff, at all relevant times, a minor, a duty to protect him from Bilzinsky's sexual deviancy and the consequential damages, both prior to and/or subsequent to the abuser's misconduct.

40. Defendant SHOREFRONT, knew, or was negligent in not knowing, that Bilzinsky posed a threat of sexual abuse to children (including Plaintiff).

41. The acts of Bilzinsky were undertaken, and/or enabled by, and/or during the course, and/or within the scope of his respective employment, appointment, assignment, and/or agency with Defendant SHOREFRONT.

42. Defendant SHOREFRONT's willful, wanton, grossly negligent and/or negligent act(s) of commission and/or omission, resulted directly and/or proximately in the damage set forth herein at length.

43. Defendant SHOREFRONT gave improper or ambiguous orders or failed to make proper regulations, and/or employed improper persons or instrumentalities in work involving risk of harm to others; failed adequately to supervise the activities of Defendant's employees; permitted, and/or intentionally failed and/or neglected to prevent, negligent and/or grossly negligent conduct and/or allowed other tortious conduct by persons, whether or not their servants and/or agents and/or employees, with instrumentalities under their control; and allowed the acts of omission and/or commission and/or any or all of the allegations set forth in this Complaint, to occur.

44. At all times material hereto, Defendant SHOREFRONT's actions and omissions were willful, wanton, malicious, reckless, and outrageous in their disregard for the rights and safety of Plaintiff, and amounted to conduct equivalent to criminality. At all times material hereto, moreover, Defendant SHOREFRONT demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, Defendant's conduct gives rise to punitive damages.

45. As a direct and/or indirect result of said conduct, Plaintiff has suffered the injuries and damages described herein.

46. By reason of the foregoing, Defendant SHOREFRONT is liable to the Plaintiff, for compensatory damages, and punitive damages, together with interest and costs.

THIRD CAUSE OF ACTION
(Breach of Non-Delegable Duty)

47. Plaintiff repeat and reallege each and every allegation set forth in the above paragraphs as if fully set forth herein.

48. Plaintiff, when he was a minor, was placed in the care and supervision of the defendant SHOREFRONT for the purposes of, inter alia, providing plaintiff with a safe environment in which to participate in educational, athletic, rehabilitative, youth, and recreational activities. There existed a non-delegable duty of trust between Plaintiff and Defendant SHOREFRONT.

49. Plaintiff was a vulnerable minor when placed within the care of the Defendant SHOREFRONT.

50. As a consequence, Defendant SHOREFRONT was in the best position to prevent the sexual abuse of Plaintiff, to learn of that sexual abuse of Plaintiff and stop it, and to take prompt steps to provide that the Plaintiff received timely therapy to address the harm he suffered resulting

from his sexual abuse. Such prompt steps would have mitigated the extent of lifetime suffering the Plaintiff has endured.

51. By virtue of the fact that Plaintiff was sexually abused as a minor entrusted to the care of Defendant SHOREFRONT, Defendant breached its non-delegable duty to Plaintiff.

52. At all times material hereto, Bilzinsky was under the supervision, employ, direction and/or control of Defendant SHOREFRONT.

53. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

54. By reason of the foregoing, Defendant SHOREFRONT is liable to the Plaintiff for compensatory damages, and punitive damages, together with interest and costs.

FOURTH CAUSE OF ACTION
(Breach of Fiduciary Duty)

55. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

56. While he was a minor, Plaintiff was entrusted by his parents to the control and supervision of Defendant SHOREFRONT. During the times that the Plaintiff was entrusted to Bilzinsky, Bilzinsky were under the supervision and control of Defendant SHOREFRONT.

57. There existed a fiduciary relationship of trust, confidence, and reliance between Plaintiff and Defendant SHOREFRONT. This relationship was based on the entrustment of the Plaintiff while he was a minor to the care and supervision of the Defendant. This entrustment of the Plaintiff to the care and supervision of the Defendant, while the Plaintiff was a child required Defendant SHOREFRONT to assume a fiduciary relationship and to act in the best interest of the Plaintiff and to protect him due to his infancy and vulnerability.

58. Pursuant to his fiduciary relationship, Defendant SHOREFRONT was entrusted with the well-being, care, and safety of the Plaintiff.

59. Pursuant to his fiduciary relationship, Defendant SHOREFRONT assumed a duty to act in the best interest of the Plaintiff.

60. Defendant SHOREFRONT breached its fiduciary duties to the Plaintiff.

61. At all times material hereto, Defendant SHOREFRONT, was willful, wanton, malicious, reckless and/or outrageous in its disregard for the rights and safety of Plaintiff JOHN DOE, and demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, Defendant's conduct gives rise to punitive damages.

62. As a direct result of said conduct, Plaintiff has suffered injuries and damages described herein.

63. By reason of the foregoing, the Defendant SHOREFRONT is liable to the Plaintiff for compensatory damages, and punitive damages, together with interest and costs.

FIFTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)

64. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

65. As described above, the actions of Defendant SHOREFRONT, their predecessors and/or successors, agents, servants and/or employees were conducted in a negligent and/or grossly negligent manner.

66. Defendant SHOREFRONT actions endangered Plaintiff's safety and caused them to fear for their own safety.

67. As a direct and proximate result of Defendant SHOREFRONT's actions and/or inactions, which included but were not limited to, negligent and/or grossly negligent conduct, the

Plaintiff suffered severe injuries and damages described herein; including but not limited to mental and emotional distress.

68. By reason of the foregoing, the Defendant SHOREFRONT is liable to the Plaintiff, for compensatory damages, and punitive damages, together with interest and costs.

SIXTH CAUSE OF ACTION
(Breach of Duty *in Loco Parentis*)

69. Plaintiff repeats and realleges each and every allegation set forth in the above paragraphs as if fully set forth herein.

70. While he was a minor, Plaintiff was entrusted by his parents to the control and supervision of Defendant SHOREFRONT. During the times that Plaintiff was entrusted to Defendant SHOREFRONT, Bilzinsky was under the supervision and control of Defendant SHOREFRONT. Defendant SHOREFRONT owed a duty to children entrusted to them (including Plaintiff) to act *in loco parentis* and to prevent foreseeable injuries.

71. Defendant SHOREFRONT breached its duty to act *in loco parentis*.

72. At all times material hereto, Defendant SHOREFRONT was willful, wanton, malicious, reckless, negligent, grossly negligent and/or outrageous in its disregard for the rights and safety of the Plaintiff, and demonstrated such moral turpitude as to cause substantial harm to the community-at-large as well as Plaintiff, and, as such, its conduct gives rise to punitive damages.

73. As a direct result of Defendant SHOREFRONT's conduct, Plaintiff has suffered the injuries and damages described herein.

74. By reason of the foregoing, Defendant SHOREFRONT is liable to the Plaintiff for compensatory damages and for punitive damages, together with interest and costs.

WHEREFORE, Plaintiff, JOHN DOE, hereby demand judgment against the Defendant on each cause of action as follows:

- A. Awarding compensatory damages in an amount to be proven at trial, but, in any event, in an amount that exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction over this matter;
- B. Awarding punitive damages to the extent permitted by law;
- C. Awarding costs and fees of this action, including attorneys' fees to the extent permitted by law;
- D. Awarding prejudgment interest to the extent permitted by law; and
- E. Awarding such other and further relief as to this Court may seem just and proper.

Dated: New York, New York
September 27, 2019

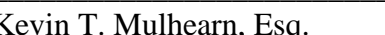
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Attorneys for Plaintiffs

Index No.:

Year:

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SUMMONS AND COMPLAINT

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